



## **I. STATEMENT OF THE CASE**

RH Cemetery Corp. is a Delaware corporation doing business as Rose Hills Memorial Park and Mortuaries in Whittier, California. To this end, the Company provides comprehensive memorial care, including cemetery property and funeral services, in a peaceful 1,400 acre setting constituting North America's largest memorial park.

On September 18, 2017, the Service Employees International Union, Local 265, Cemetery Workers & Greens Attendants (hereinafter "Petitioner" or "the Union") filed a petition to represent certain RH Cemetery employees for the purpose of collective bargaining. Pursuant to a Stipulated Election Agreement approved by the Regional Director on September 12, 2017, a secret ballot election was conducted in the Employer's break room from 3 p.m. to 5 p.m. on Friday, October 13, 2017, in the following unit:

INCLUDED: All full-time and regular part-time Interment Specialists, Operators I, II, and III, Mechanics/Welders and Framers employed by the Employer at its facility located at 3888 Workman Mill Road, Whittier, California.

EXCLUDED: All other employees, office clerical employees, managers, guards, and supervisors as defined in the Act.

At the conclusion of the election, the tally of ballots showed that, of 58 eligible voters, 35 cast votes for the Petitioner, and 23 employees cast votes against the Petitioner. There were no challenged ballots.

The Employer filed timely Objections to the election, as well as evidence in support of those Objections, on October 20, 2017. *Exhibit 1.* Specifically, the Employer asserted that, if granted a hearing, it would provide evidence that on the day of the election, Union supporters engaged in impermissible electioneering by accosting voters walking to the polls in an effort to harass and coerce them into voting for the Union. This conduct lasted for the majority of the election period and impacted multiple voters – and yet, it was not addressed by the Board Agent

conducting the election, and no efforts were made to preserve the neutrality of the polling location, or to curb the intimidating actions of the Union supporters.

The Employer submitted that, if the underlying facts could be proven, the circumstances of the election destroyed laboratory conditions and rendered free choice impossible. Accordingly, the Employer requested a hearing to present evidence and demonstrate that the conduct was intended to intimidate voters and disrupt the election process itself – and, that it had the additional effect of destroying the appearance of Board neutrality. Finally, given the open and widespread nature of the misconduct, the Employer submitted that it could present abundant evidence in support of its position, including multiple surveillance videos, and over 15 witnesses.

Rather than granting a hearing, the Regional Director conducted an administrative investigation and flatly concluded that the limited “evidence” he reviewed failed to support the Employer’s version of events. He therefore denied the Employer’s request for a hearing to present evidence, and – with virtually no legal analysis – he issued a Decision and Certification of Election dismissing the Employer’s Objections in their entirety.

As demonstrated below, however, the findings of the administrative investigation were clearly erroneous – indeed, they are demonstrably false – and the Regional Director’s reliance on bad facts led to bad law. Accordingly, the Employer requests that the National Labor Relations Board grant the Employer’s Request for Review, vacate the Regional Director’s Decision in its entirety, and order that a hearing be held to establish the truth of what happened during this election.

## II. ARGUMENT AND CITATION OF AUTHORITY

### A. The Region's Administrative Investigation Ignored Evidence And Arrived At Clearly Erroneous Conclusions, Resulting in the Regional Director Improperly Overruling Employer's Objections 1 And 2,

As described above, in its first Objection, the Employer argued that agents and supporters of the Union “engaged in unlawful surveillance of employees on election day, and engaged in last-minute electioneering and coercion in an attempt to influence their votes.” Specifically, the Employer pointed to Union supporters watching employees as they arrived to vote, stationing themselves outside of the voting area in order to intercept voters on their way to the polls, and engaging in prolonged discussions with at least 15 voters. The Employer submitted that this conduct constituted unlawful surveillance and electioneering in violation of the Board’s standard in *Milchem, Inc.* [a/k/a *Milchem*, 170 NLRB 362 (1968)], and proposed to present further evidence demonstrating that the employee supporters were acting as agents of the Petitioner throughout the campaign.<sup>1</sup>

Compounding the coercive nature of this conduct was the Board Agent’s refusal to curb the electioneering in any way. As set forth in the Employer’s second objection, the Board Agent did not appropriately designate the no-electioneering zone immediately outside the voting area, and then subsequently made no attempt to counteract the unlawful electioneering occurring directly outside the door – amounting to a tacit endorsement of the last-minute harassment, thereby compromising the neutrality of the Board, and undermining the fairness of the election.

In support of its Objections, the Employer submitted a summary of evidence that it would present at a hearing. This evidence included a list of fifteen witnesses who could testify as to the

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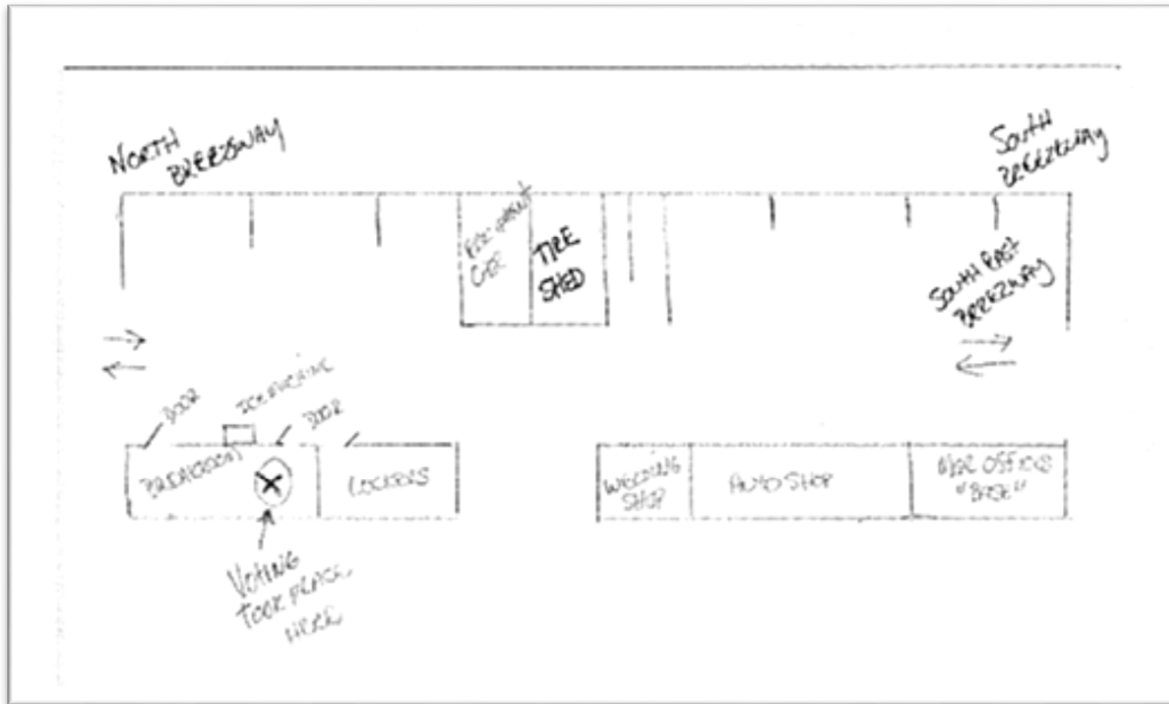
<sup>1</sup> While the Employer anticipates proving this assertion at a hearing should one be granted, it notes that the conduct described would also be impermissible under a third party standard, given its widespread, coercive, and prolonged nature. *Hollingsworth Management Service*, 342 NLRB 556 (2004).

conduct of the Union's supporters, and the extent of their interference with voters. The Employer offered to provide additional testimony from management personnel, who also witnessed the electioneering taking place, as well surveillance videos capturing different perspectives of the voting area, each spanning the two-hour period that the polls were open.

### **1. The Region's Administrative Investigation**

On June 26, 2018, eight months after the election, Assistant to the Regional Director Nathan Seidman contacted counsel for the Employer and requested additional information for the Region's administrative review. Seidman's request included questions about the identity of the agents who engaged in unlawful surveillance, their location relative to the polling area, and information about the physical layout of the facility. Mr. Seidman also asked whether any security footage existed of the area during the vote.

Counsel for the Employer responded on July 2, 2018, naming Richard Garza and Ricardo Garcia as two of the active supporters who engaged in electioneering, noting that those individuals stationed themselves in the "breezeway" to intercept eligible voters as they arrived from their work areas to vote. Counsel explained that many agents of the Petitioner "engaged voters at this location and, in many instances, walked with the voters the short distance to the actual entry to the voting area. Garcia (who was not scheduled to work on the day of the vote) remained in the area and engaged all voters arriving to vote for approximately 1.5 hours out of the total of two hours of the vote." *Exhibit 2*. As further evidence, the Employer provided a sketch of the facility, identifying the location of the break room where the election was held, and the breezeway where the Union supporters were stationed:



*Exhibit 2.*

On July 12, the Employer supplemented its response with surveillance video taken of the area during the election. In an email to Seidman, counsel for the Employer summarized the content of the videos as follows:

Per your request, I am sending you a flash drive with the videos of the election area. As the videos will demonstrate, one or more known and vocal union supporters and agents were in the area for the entire voting period forcing every voter to run a union gauntlet in order to vote. In many instances, one of these union supporters actually walked with the voter all the way from the locker area to the voting entrance. The videos may be difficult to track without some guidance but the following is our evaluation of the time spent by these individuals in the voting area:

Richard Garza	22:09 minutes
Ricardo Garcia	1:27:55 hours
Manuel Garcia	44:13 minutes
Miguel Sosa	1:26:21 hours
Alex Flores	41:40 minutes
Yazmany Camacho	54:50 minutes
Peter Murrieta	20:47 minutes
Juan Rodriguez	34:37 minutes
Marcelino Gradilla	50:10 minutes

In addition, the fact that these individuals actively supported and acted as agents of the union throughout the election period can be indisputably demonstrated (announcements by the union for example). Accordingly, that will likely not even be a disputed issue in the Hearing.

*Exhibit 3.*

There were no further requests for information or clarification from the Region, and on August 17, 2018, the Regional Director issued his decision, overruling the Employer's Objections in their entirety.

**2. The Regional Director's Determinative Factual Findings Are Clearly Erroneous**

In his Decision on Objections, Regional Director Cowen relied exclusively on the surveillance videos as the controlling evidence in this case. More specifically, he relied exclusively on *two minutes* of one of those videos, and summarized the entirety of this determinative evidence as follows:

The surveillance video showed that at approximately 3:42 p.m., one individual the Employer identified as an off-duty employee who actively supported the Petitioner entered the south end of the breezeway with another individual. They were approached by the security officer at the south end of the breezeway. The other individual walked toward the polling place and the off-duty employee stepped back in front of one of the large parking spaces. The off-duty employee was approached by another security officer who appeared from the north end of the breezeway. The security officer then walked with the off-duty employee out of the breezeway from the north exit at approximately 3:44 p.m.

*Decision, 4.*

In his subsequent legal analysis, the Regional Director placed his full reliance on the above finding, again pointing specifically to the images of one off-duty employee in concluding that the evidence was insufficient, and the Employer's Objections lacked merit:

The evidence adduced by the Region during its administrative investigation of the objections established **only that at least one off-duty employee briefly interacted with voters in the large breezeway area leading to the polling place.** The evidence failed to establish any prolonged conduct between employees alleged to be agents of the petitioner and voters as they walked within the large breezeway to and from the lunch room where the voting took place [...] Unlike the off-duty employee, who appeared in the breezeway for only a few minutes, the security officers were stationed in the breezeway and in front of the polling place during the entire 2-hour polling period according to the Employer's own surveillance video. Accordingly, Objections No. 1 and 2 are overruled.

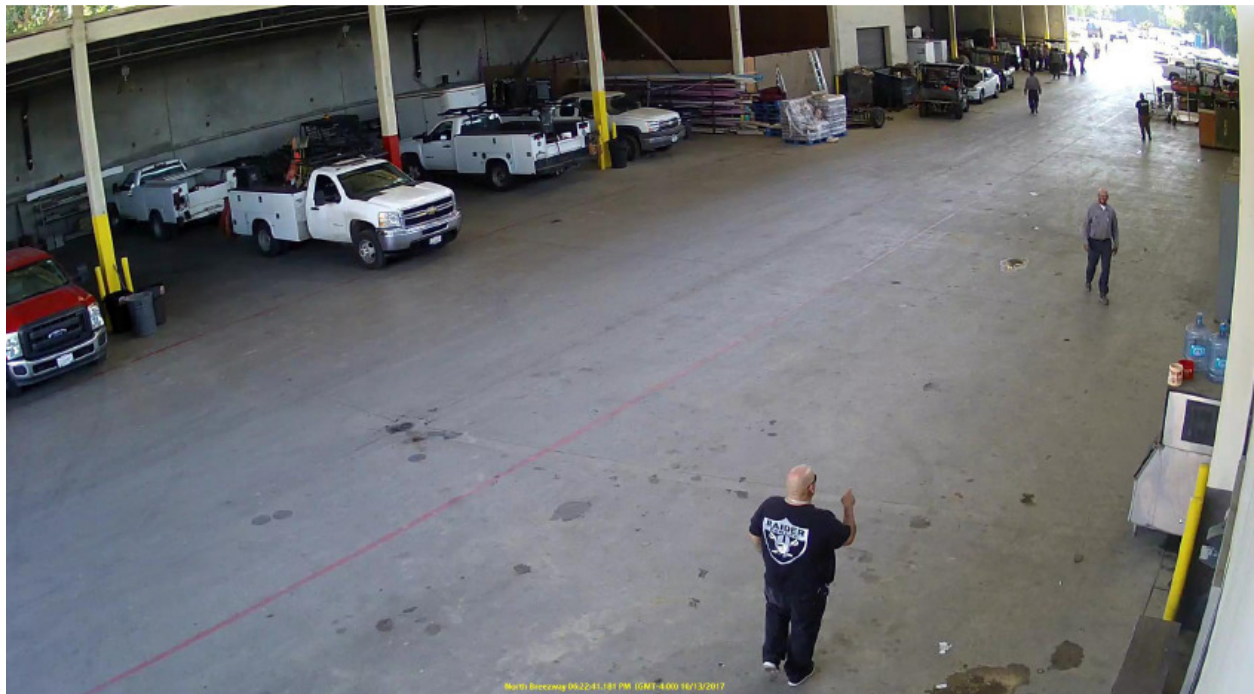
*Decision, 5 (emphasis added).*

And so, despite the fact that the Employer provided the Region with several hours' worth of video showing multiple individuals interacting with voters in the breezeway during the election, and despite the Employer's offer to present 15 eyewitnesses who would provide context to the silent video files, this limited finding constituted the entirety of the factual evidence relied upon by the Regional Director in dismissing the Employer's Objections. Rather than considering what the witnesses might say, or even reviewing the videos in their totality, the Regional Director's sole and determinative factual finding was that this particular employee's actions did not constitute electioneering, because he spent only two minutes in the breezeway.

Which is why hearings are necessary in cases such as this, because if a hearing had been granted, the Regional Director would not have made such a blatant mistake. If a hearing had been held, the Regional Director would have known that the employee whose actions he so closely tracked was Richard Garza, and he would have known that – contrary to his conclusory findings of fact – Garza had already spent 20 minutes interacting with voters before he “entered” the breezeway at 3:42 p.m. According to the same video evidence relied upon by the Regional Director, Garza – easily identifiable as an imposing figure wearing a black and white Oakland



Raiders tee shirt – actually arrived from the north end of the breezeway at 3:22 p.m., where his first order of business was intercepting a voter walking to the door of the polling location:



*Exhibit 4.*

At 3:24 p.m., Garza is seen leaving the break room, and speaking with another individual outside the door. *Exhibit 5.* A minute later, he approaches a third employee near the parking spaces across from the polling location. *Exhibit 6.* He then walks to the south end of the breezeway, where he is filmed speaking to other employees at 3:30 and 3:33 p.m., before finally heading back toward the north end at 3:42. *Exhibits 7, 8, and 9.* At this point, Garza engages in further conversation with employees as one security guard looks on, before eventually returning to the north end of the breezeway, and walking off camera with a second guard. *Exhibits 10, 11, and 12.* Garza spent a total of 22 minutes in the area, and he spent the majority of that time approaching and interacting – often physically – with voters. Somehow, the Regional Director missed all of this.

While the findings the Regional Director did make are clearly erroneous, equally problematic is what the Regional Director ignored, and what he assumed. While he limited his investigation to reviewing two minutes of conduct by one individual, as the Employer explained in both its Objections and its submissions to the Region, in reality, *multiple* Union supporters were engaged in electioneering. Indeed, nine individuals remained in the area for the duration of the election, some for periods significantly longer than Garza, yet the Regional Director's abbreviated synopsis makes no mention of them at all. Not only is the Regional Director's synopsis factually wrong, it is also woefully incomplete.

Still, even as he ignored two hours' worth of video showing electioneering by Union supporters, the Regional Director nevertheless felt confident to make assumptions about what he did see, resulting in his repeated mentions of security workers standing near the polling place. Despite the fact that this, too, served as a deciding factor in his analysis, the Regional Director never explained why the mere presence of security officers would nullify the electioneering. He provided no examples of the security officers interfering to stop any of those efforts, and indeed, the electioneering continued throughout the election – as seen by the exhibits, not only was security not consistently present for the full election period, the security personnel simply stood by and watched as multiple incidents of electioneering occurred directly in front of them. While the Regional Director's recitation of the facts suggests that, at one point, a security officer escorted Garza from the premises, all that can actually be seen is the employee walking off camera – once again, the entirety of the Regional Director's findings are based on a faulty assumption.

This serves as another reason why a hearing should have been granted here. At a hearing, the Employer could present evidence explaining the purpose of the security workers on that date, and provided evidence of the assignments they were given. The Employer could have called the

guards themselves as witnesses to testify that their only instruction was to prevent non-voters from entering the polling area. The guards could also testify that they did nothing to stop any conversations or electioneering during that time, and that testimony would be confirmed by the video evidence, which does not show a single incident of a guard interfering with voters during the full two hours of footage. Even the brief encounter with Garza could have been explained by testimony – while the Regional Director’s summary implies that Garza left after being approached (and possibly rebuked) by the guard, a more reasonable explanation might be that the guard simply asked Garza – who was out of uniform – if he was an employee, and that Garza continued on the northern path he was already taking, exiting the breezeway from the same place he entered 22 minutes earlier. The Employer did not have the opportunity to present that evidence, though, and while the Region asked for clarification on a number of other points, it did not ask for further information about the guards; instead, the Region chose to draw its own conclusions in a vacuum, and to draw conclusory assumptions with no regard for what actually happened on that day.

### **3. The Regional Director’s Clearly Erroneous Findings Should Not Be Upheld by the Board.**

In considering evidence, a factfinder has an obligation to be reasonable, thorough, and impartial. This is a Constitutional imperative, and consequently, both the Board and the federal courts are highly critical of situations where finders of fact demonstrate a tendency to “cherry-pick,” or to ignore certain record evidence without sufficient reason. To this end, in *Warshawsky & Co. v. NLRB*, the D.C. Circuit rejected the findings of an ALJ who “employed a kind of ‘divide and conquer’ evidentiary strategy, dissecting the General Counsel’s case into evidentiary fragments that standing alone would be insufficient to prove inducement, but neglecting to consider what we think is the overpowering evidentiary force of those parts put together.” The Court went on to criticize the Board itself for upholding the decision, noting that “[f]or the Board

to focus on evidentiary fragments and to ignore the aggregate weight of the evidence is no more permissible than ignoring evidence that contradicts its conclusion.” *Warshawsky & Company v. NLRB*, 182 F.3d 948, 956 (D.C. Cir. 1999)(citing *Universal Camera Corp. v NLRB*, 340 U.S. 474, 487–88 (1951)); see also, *Podewils v. NLRB*, 274 F.3d 536, 540 (D.C. Cir. 2001)(refusing to give effect to “the inferences the Board draws from the evidence” on the grounds that such conclusions were “quite unreasonable”). Indeed, the D.C. Circuit has flatly announced that discarding record evidence and “[p]ermitting circumstantial evidence and legal fictions to trump direct proof to the contrary is absurd.” *Flagstaff Medical Center, Inc. v. NLRB*, 715 F.3d 928, 935 (D.C. Cir. 2013); see also, *Picoma Industries*, 296 NLRB 498, 499 (1989)(Board overruling the findings of a hearing officer who “failed to properly consider the cumulative effect of the credited testimony”).

Applying these principles to the facts described above, it is clear that the administrative investigation conducted by the Region in this case was legally deficient, and fundamentally unfair. The Regional Director cannot rely on two isolated minutes while disregarding hours of other evidence, nor can he point to the actions of one individual while ignoring the conduct of eight others. The cursory and flawed analysis conducted in this case is a troubling example of how a decision can be driven by “evidentiary fragments,” while “ignoring evidence that contradicts [the Regional Director’s] conclusion.” As the Board must surely recognize, this is not how the law is supposed to work.

Ultimately, and fortunately, this is an easy case with an easy resolution. Despite the Employer’s willingness to present and explain the relevant facts, the Regional Director declined to engage in any legitimate review of the evidence, instead cobbling together a narrative based on partial truths and unsupported assumptions. At the same time, he denied the Employer’s request for hearing on the issues, thus preventing the Employer from correcting his mistakes or responding

to his flawed conclusions. And, because the Regional Director relied entirely on his factual findings in dismissing the Employer's Objections 1 and 2, and neglected to perform any meaningful application of the law to the actual evidence of this case, the overall result was fundamentally wrong, as a matter of law. As such, a hearing should be granted to correct this fatally flawed opinion, and to remedy the manifest unfairness that resulted to the Employer, as well as the Rose Hills voters.

### **III. CONCLUSION**

For these reasons, the Employer respectfully requests that the Board vacate the Decision and Direction of the Regional Director, and order a hearing in this case.

Respectfully submitted, this 31<sup>st</sup> day of August, 2018.

X *TIMOTHY A. DAVIS*

Timothy A. Davis

X *Leigh E. Tyson*

Leigh E. Tyson



230 Peachtree Street, Suite 2400 Atlanta, GA 30303

## CERTIFICATE OF SERVICE

I, Leigh Tyson, do hereby certify that the foregoing **Employer's Request For Review** has been served upon the Board by eFiling via the National Labor Relations Board's eFiling service, with a copy delivered via email delivery to the following:

The Hon. William B. Cowen  
Regional Director  
National Labor Relations Board, Region 21  
888 South Figueroa Street, 9th Floor  
Los Angeles, CA 90017-5449  
[William.cowen@nlrb.gov](mailto:William.cowen@nlrb.gov)

John M. Martin  
Field Representative/Organizer  
Cemetery Workers & Greens Attendants Union, SEIU Local 265  
[Johnmartinlocal1265@gmail.com](mailto:Johnmartinlocal1265@gmail.com)

Dated this 31<sup>st</sup> day of August, 2018.

X LEIGH E. TYSON

LEIGH E. TYSON



UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

<b>RH CEMETERY CORP.,</b>	)	
	)	
	)	
<b>Employer,</b>	)	
	)	
<b>and</b>	)	<b>Case No. 21-RC-206360</b>
	)	
<b>SERVICE EMPLOYEES INTERNATIONAL</b>	)	
<b>UNION, LOCAL 265, CEMETERY WORKERS &amp;</b>	)	
<b>GREENS ATTENDANTS</b>	)	
	)	
<b>Petitioner.</b>	)	
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**EXHIBIT 1**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 21**

<b>RH CEMETERY CORP.,</b>	)	
	)	
<b>Employer,</b>	)	
	)	
<b>and</b>	)	<b>Case No. 21-RC-206360</b>
	)	
<b>SERVICE EMPLOYEES INTERNATIONAL UNION,</b>	)	
<b>LOCAL 265, CEMETERY WORKERS &amp; GREENS</b>	)	
<b>ATTENDANTS</b>	)	
	)	
<b>Petitioner.</b>	)	
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**EMPLOYER'S ELECTION OBJECTIONS**

COMES NOW the Employer, RH Cemetery Corporation, by and through its counsel of record, and files the following objections to conduct affecting the election held on October 13, 2017. Of 58 eligible voters, 35 voted for representation and 23 voted against representation – meaning that a change in only six votes would have resulted in the Service Employees International Union, Local 265, Cemetery Workers and Greens Attendants (“Petitioner”) losing the election. To this end, the Employer contends that the following conduct – undertaken by agents, and its supporters – inherently destroyed laboratory conditions, and created an atmosphere of fear and hostility that made a fair vote impossible. Specifically, the Employer’s Objections are as follows:

1. Agents and representatives of the Petitioner and employee supporters of the Petitioner engaged in unlawful surveillance of employees on election day, and engaged in last-minute electioneering and coercion in an attempt to influence their votes; such activity included, but was not limited to, watching employees as they arrived to vote; the stationing of Union supporters directly outside the voting area; and Union supporters speaking with, and attempting to influence, at least 15 employees as they made their way to the polls. This conduct constituted unlawful surveillance and electioneering in violation of the Board’s standard in Milchem, Inc. [a/k/a Milchem, 170 NLRB 362 (1968)];
2. The Board Agent did not appropriately designate the no-electioneering zone outside the voting area, and then subsequently made no attempt to monitor or counteract the unlawful electioneering occurring directly outside the door, thereby signifying the NLRB’s tacit approval of the unlawful activity, compromising the neutrality of the Board, and undermining the fairness of the election;
3. A former supervisor of the Employer directly supported and encouraged employees to support the Petitioner and bring the Petitioner into the facility. Although this individual resigned shortly after the petition was filed, he was employed for part of the critical period



before the election. After quitting, this individual continued to actively support the Petitioner, going so far as to attend Union meetings; and

4. Other conduct upon which evidence is submitted by the Employer or which is discovered during the course of the Region's investigation of these objections which served to undermine the laboratory conditions surrounding the election.

All of the actions described in the aforementioned election objections occurred in the critical period prior to the close of the polls on October 13, 2017. These actions were disseminated to a determinative number of voters, and – if proven at a Hearing – would constitute sufficient cause to overturn the election results.

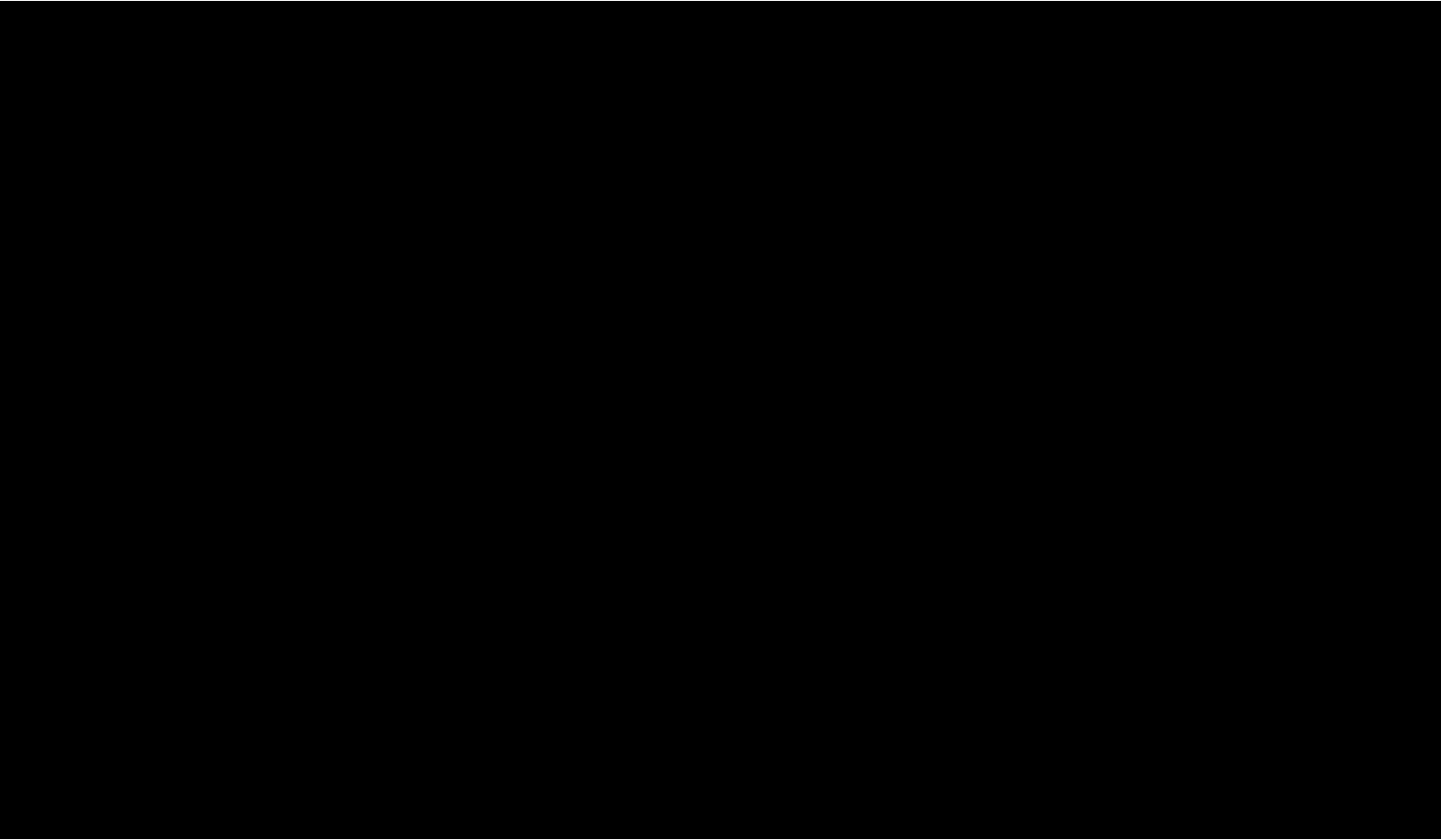
Based on the foregoing election objections and the supporting evidence (filed separately), the Employer respectfully requests that Region 21 conduct an investigation and schedule a Hearing on each of these election objections.

Submitted this 20<sup>th</sup> day of October, 2017.



Timothy A. Davis  
Counsel for the Employer  
2600 Grand Boulevard  
Suite 750  
Kansas City, MO 64108-4600





**From:** Davis, Tim  
**Sent:** Monday, July 2, 2018 12:40 PM  
**To:** Seidman, Nathan M <Nathan.Seidman@nlrb.gov>  
**Subject:** RE: Employer Objections - RH Cemetery Corp., 21-RC-206360

Nathan,

I apologize for the delays in getting you the requested information. Our initial responses are below and attached. We can supplement and discuss further if needed after you review.

Objection 1:

- a. Who is/are the unnamed agents or representatives of the Petitioner who engaged in the alleged unlawful surveillance, last-minute electioneering, and coercion? At least two known and vocal union supporters who engaged in the electioneering in the protected area are employees Richard Garza and Ricardo Garcia.
- b. Where exactly were these agents or representatives stationed? Garza and Garcia stationed themselves in the "breezeway" where voters arrived from their work areas to vote. They engaged voters at this location and, in many instances, walked with the voters the short distance to the actual entry to the voting area. Garcia (who was not scheduled to work on the day of the vote) remained in the area and engaged all voters arriving to vote for approximately 1.5 hours out of the total of two hours of the vote.
- c. Does the Employer have video of the conduct alleged to be objectionable? Yes. Surveillance cameras captured much of the known electioneering that occurred. This information can be provided via separate delivery.

Objection 2:

- a. Describe the physical layout of the polling place and the place where the alleged electioneering took place. Sketch of the area attached.

Objection 3:

- a. What was former supervisor Jay Rodriguez' job title? Sr. Manager, Cemetery Operations

- b. What supervisory indicia did Rodriguez possess under Section 2(11) of the Act? Hire, Fire, Discipline, Evaluate Performance, Assign Work, Responsibly Direct Employees and to recommend same. Basic job description attached
- c. On what date did Rodriguez resign? September 13, 2017

Objection 4:

- a. As we discussed, is the Employer willing to withdraw this catch-all objection, which would otherwise be dismissed? Yes as this is covered by the other Objections. However, to the extent additional information is discovered or presented in preparation for or as part of the Hearing, we reserve the right to submit arguments concerning such information.

Again, we look forward to continuing this discussion and getting you the information you need to complete this review.

Tim

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**Tim Davis**  
**Partner - Office Head**

Constangy, Brooks, Smith & Prophete, LLP  
Direct: 816.329.5910 • Mobile: 913.205.8647 • Direct Fax: 816.256.5504  
E-mail: TADavis@constangy.com • View Bio/VCard  
2600 Grand Boulevard  
Suite 750  
Kansas City, MO 64108-4600  
Main: 816.472.6400 • Fax: 816.472.6401

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**From:** Seidman, Nathan M [<mailto:Nathan.Seidman@nrlrb.gov>]  
**Sent:** Tuesday, June 26, 2018 5:32 PM  
**To:** Davis, Tim <[TADavis@constangy.com](mailto:TADavis@constangy.com)>  
**Subject:** RE: Employer Objections - RH Cemetery Corp., 21-RC-206360

Tim,

Thank you for speaking to me earlier today. Here are some areas of inquiry that we can discuss further tomorrow:

Objection 1:

- a. Who is/are the unnamed agents or representatives of the Petitioner who engaged in the alleged unlawful surveillance, last-minute electioneering, and coercion?
- b. Where exactly were these agents or representatives stationed?
- c. Does the Employer have video of the conduct alleged to be objectionable?

Objection 2:

- a. Describe the physical layout of the polling place and the place where the alleged electioneering took place.

Objection 3:

- a. What was former supervisor Jay Rodriguez' job title?
- b. What supervisory indicia did Rodriguez possess under Section 2(11) of the Act?
- c. On what date did Rodriguez resign?

Objection 4:

- a. As we discussed, is the Employer willing to withdraw this catch-all objection, which would otherwise be dismissed?

I look forward to speaking to you tomorrow.

Nathan  
(213) 634-6518

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**From:** Seidman, Nathan M  
**Sent:** Monday, June 25, 2018 10:14 PM  
**To:** 'tadavis@constangy.com' <[tadavis@constangy.com](mailto:tadavis@constangy.com)>  
**Subject:** Employer Objections - RH Cemetery Corp., 21-RC-206360

Mr. Davis,

I would like to discuss the Employer's objections in *RH Cemetery Corp.*, 21-RC-206360 at your earliest convenience.

Please call me at (213) 634-6518.

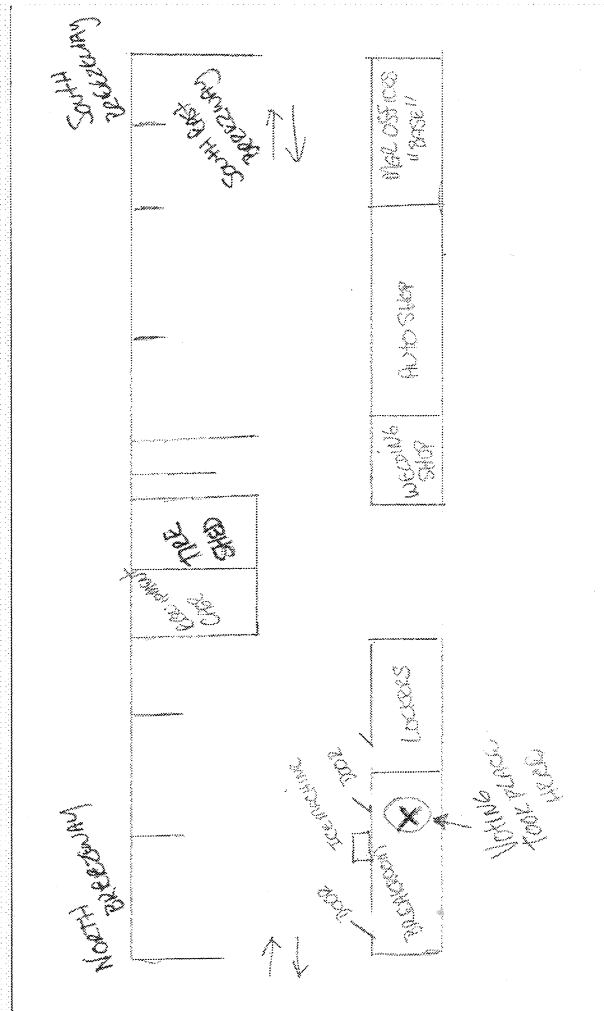
Sincerely,

Nathan Seidman  
Assistant to the Regional Director  
NLRB, Region 21 – Downtown Los Angeles  
(213) 634-6518

**\*\* CONFIDENTIALITY NOTICE \*\***

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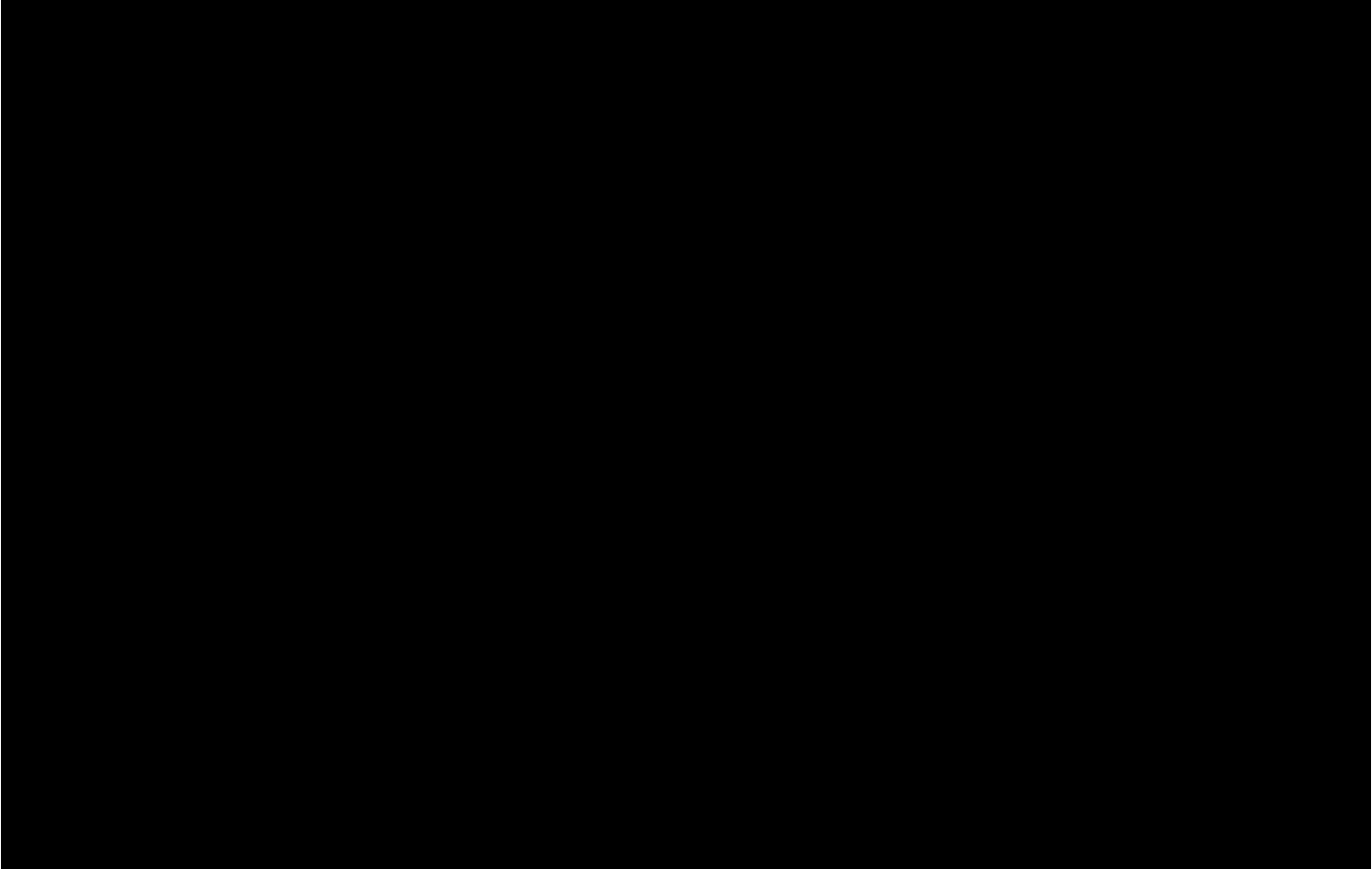
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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

RH CEMETERY CORP.,	)	
	)	
	)	
Employer,	)	
	)	
and	)	Case No. 21-RC-206360
	)	
SERVICE EMPLOYEES INTERNATIONAL	)	
UNION, LOCAL 265, CEMETERY WORKERS &	)	
GREENS ATTENDANTS	)	
	)	
Petitioner.	)	
<hr/>		

EXHIBIT 3



**From:** Davis, Tim  
**Sent:** Thursday, July 12, 2018 12:40 PM  
**To:** Seidman, Nathan M <Nathan.Seidman@nlrb.gov>  
**Subject:** Requested Video in Support of Objections

Nathan,

Per your request, I am sending you a flash drive with the videos of the election area. As the videos will demonstrate, one or more known and vocal union supporters and agents were in the area for the entire voting period forcing every voter to run a union gauntlet in order to vote. In many instances, one of these union supporters actually walked with the voter all the way from the locker area to the voting entrance. The videos may be difficult to track without some guidance but the following is our evaluation of the time spent by these individuals in the voting area:

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Marcelino Gradilla 50:10 minutes

In addition, the fact that these individuals actively supported and acted as agents of the union throughout the election period can be indisputably demonstrated (announcements by the union for example). Accordingly, that will likely not even be a disputed issue in the Hearing.

Please let me know if you need additional information or if you have trouble viewing the videos.

Tim

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**Tim Davis**  
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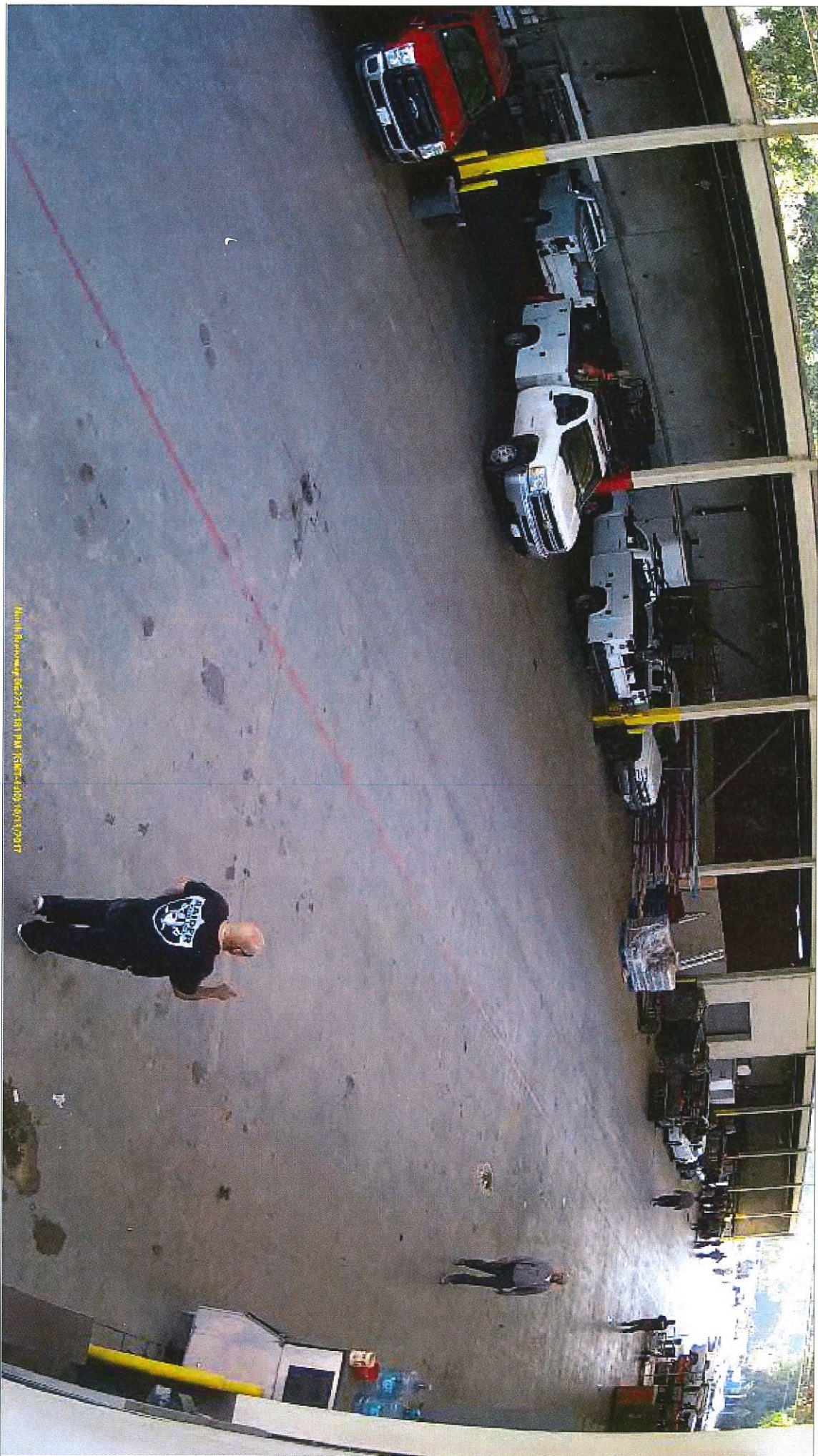
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File Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Camera Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Date/Time of Capture: 10/13/2017 6:22:41 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 3:56:30 PM (GMT-4:00)

Network Video Recorder









File Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Camera Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Date/Time of Capture: 10/13/2017 6:24:34 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 3:57:36 PM (GMT-4:00)

Network Video Recorder









File Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Camera Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Date/Time of Capture: 10/13/2017 6:25:27 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 3:59:08 PM (GMT-4:00)

Network Video Recorder



North Breezway 06:25:27.914 PM (GMT-4:00) 10/13/2017

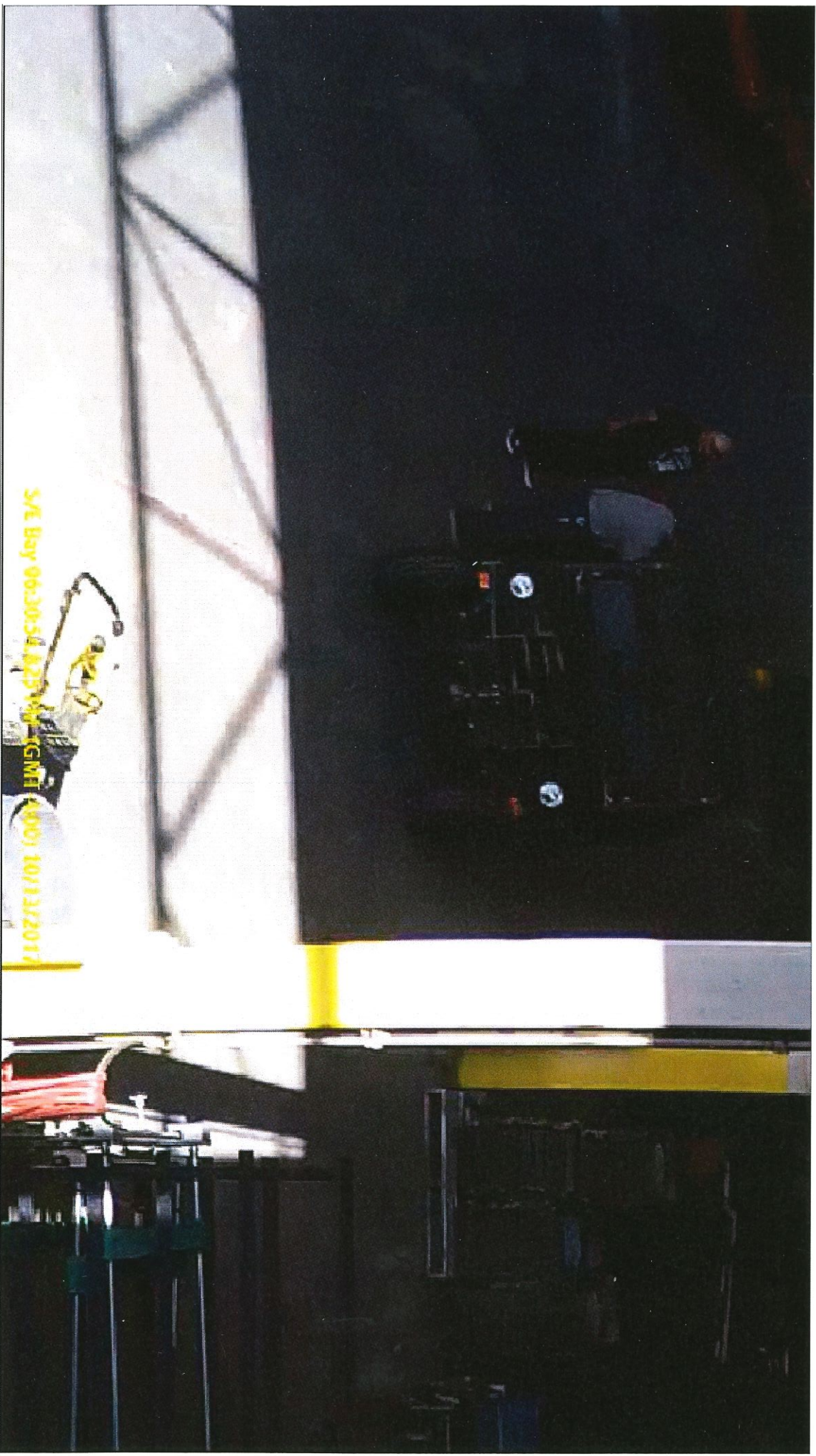






File Name: Vote\_S E Bay\_20171013\_150917  
Camera Name: Vote\_S E Bay\_20171013\_150917  
Date/Time of Capture: 10/13/2017 6:30:54 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 3:26:50 PM (GMT-4:00)

Network Video Recorder



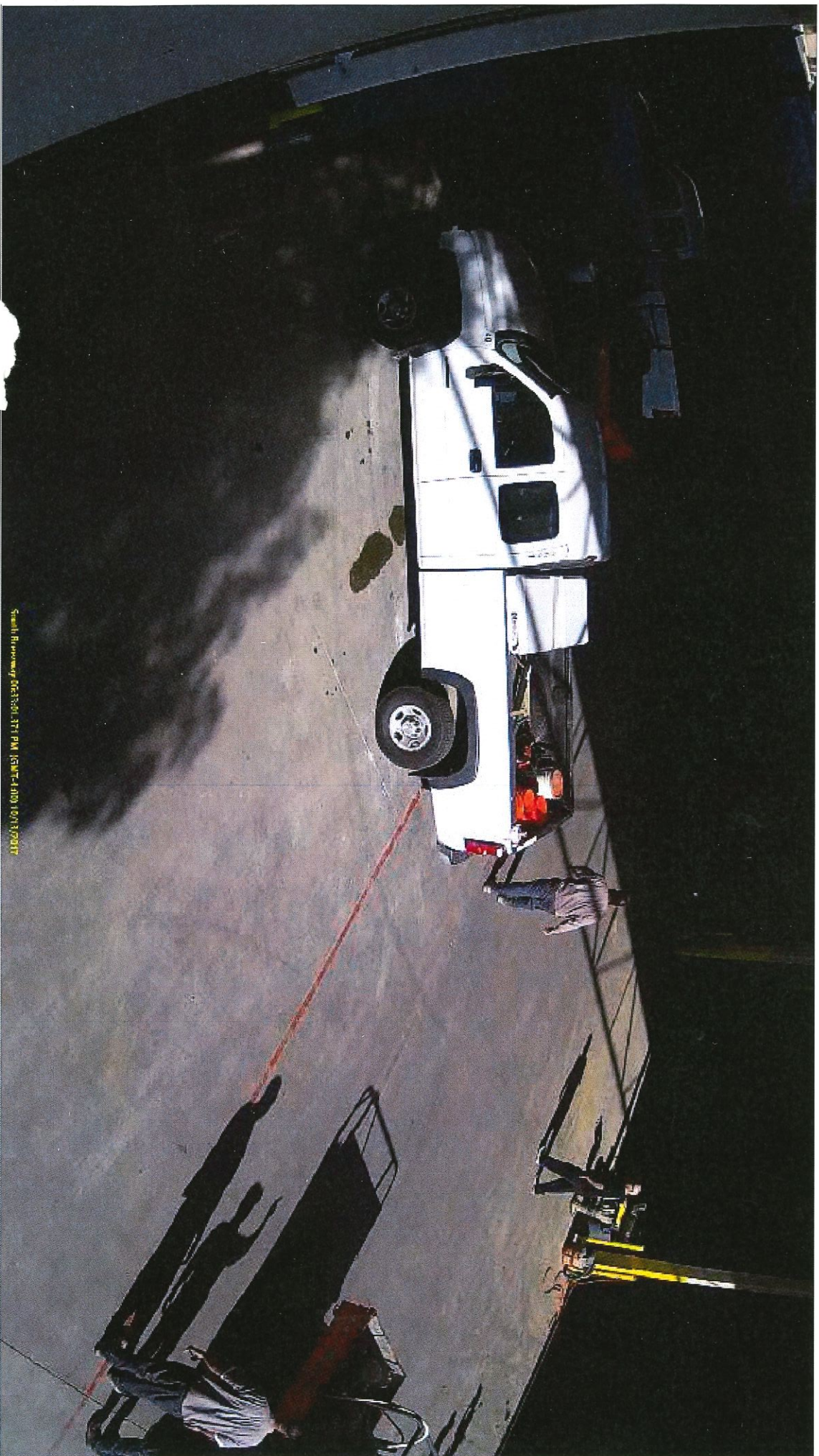
07/11/17





File Name: Vote\_South Breezway\_20171013\_143716  
Camera Name: Vote\_South Breezway\_20171013\_143716  
Date/Time of Capture: 10/13/2017 6:33:01 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 3:52:36 PM (GMT-4:00)

Network Video Recorder



South Breezway\_20171013\_143716

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

<b>RH CEMETERY CORP.,</b>	)	
	)	
	)	
<b>Employer,</b>	)	
	)	
<b>and</b>	)	<b>Case No. 21-RC-206360</b>
	)	
<b>SERVICE EMPLOYEES INTERNATIONAL</b>	)	
<b>UNION, LOCAL 265, CEMETERY WORKERS &amp;</b>	)	
<b>GREENS ATTENDANTS</b>	)	
	)	
<b>Petitioner.</b>	)	
<hr/>	)	

**EXHIBIT 9**



File Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Camera Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Date/Time of Capture: 10/13/2017 6:42:57 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 4:05:36 PM (GMT-4:00)

Network Video Recorder



North Breezway 06:42:57.909 PM (GMT-4:00) 10/13/2017





File Name: Vote\_10\_13\_Tire Shed 20171013\_143813  
Camera Name: Vote\_10\_13\_Tire Shed 20171013\_143813  
Date/Time of Capture: 10/13/2017 6:43:27 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 3:33:59 PM (GMT-4:00)

Network Video Recorder



Tire Shed 06:43:27 PM 10/13/2017



UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

RH CEMETERY CORP.,	)	
	)	
	)	
Employer,	)	
	)	
and	)	Case No. 21-RC-206360
	)	
SERVICE EMPLOYEES INTERNATIONAL	)	
UNION, LOCAL 265, CEMETERY WORKERS &	)	
GREENS ATTENDANTS	)	
	)	
Petitioner.	)	
<hr/>		

EXHIBIT 11



File Name: Vote\_10\_13\_Tire Shed\_20171013\_143813  
Camera Name: Vote\_10\_13\_Tire Shed\_20171013\_143813  
Date/Time of Capture: 10/13/2017 6:44:08 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 3:35:09 PM (GMT-4:00)

Network Video Recorder



Tire Shed 06:44:08 PM (GMT-4:00) 10/13/2017

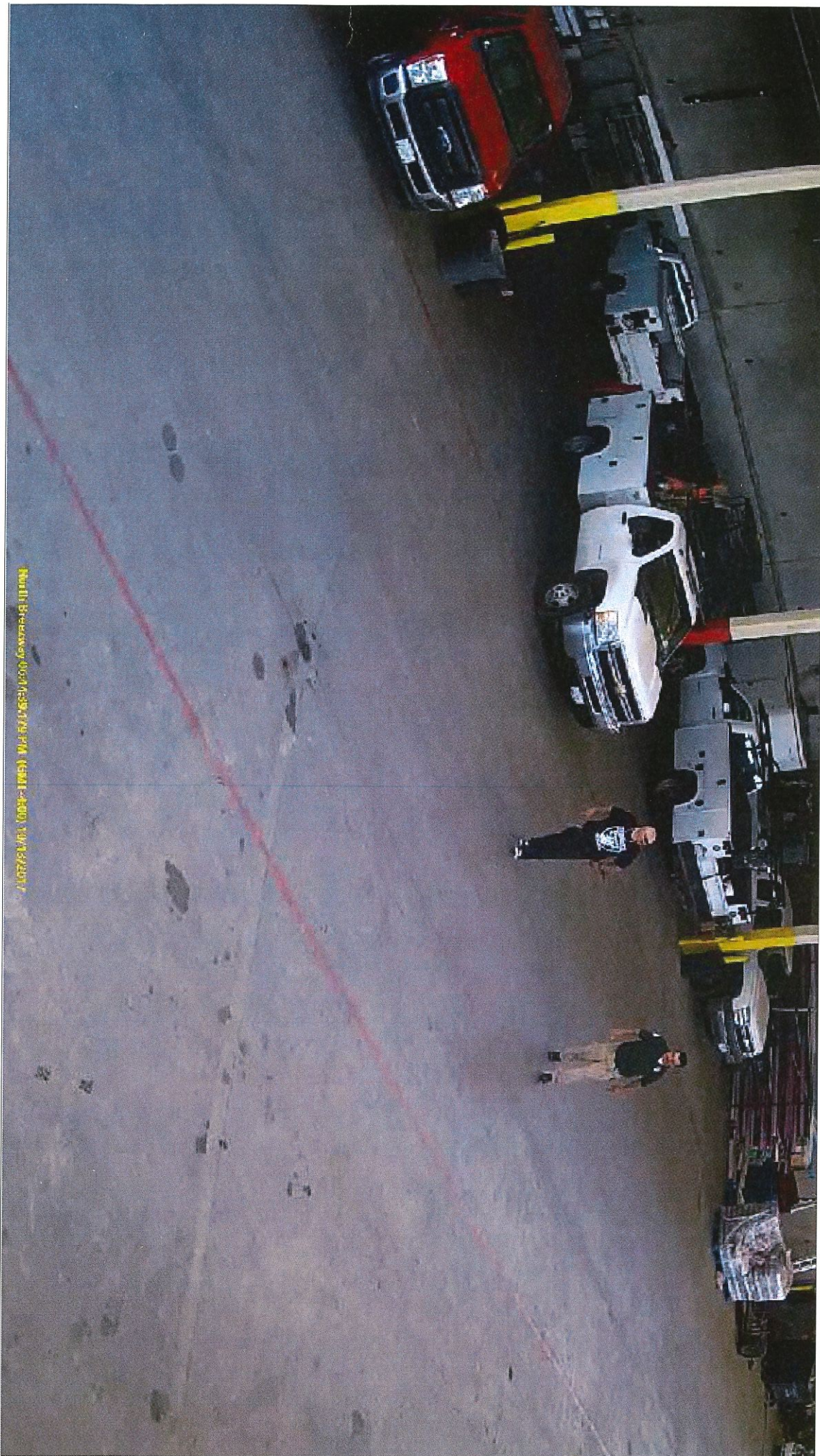






File Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Camera Name: 10\_13\_Vote\_North Breezway\_20171013\_142652  
Date/Time of Capture: 10/13/2017 6:44:39 PM (GMT-4:00)  
Date/Time of Print: 8/30/2018 4:09:59 PM (GMT-4:00)

Network Video Recorder



North Breezway 06:46:39 PM (GMT-4:00) 10/13/2017

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